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Department for Professional Employees, AFL-CIO

September 20, 2002

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RE: Ex Parte Notice

CC MM Docket No. 01-235. In the Matter of Cross Ownership of Broadcast Stations and Newspapers; MM Docket No. 01-235; In the Matter of Newspaper/Radio Cross Ownership Waiver Policy; MM Docket No. 00-244. In the Matter of Definition of Radio Markets.

Dear Ms. Dortch:

On September 19, 2001, representatives of the AFL-CIO, the Department of Professional Employees (DPE) of the AFL-CIO, and affiliated unions met with Kenneth Ferree, Paul Gallant, Robert Ratcliffe, and Royce Sherlock of the Media Bureau to clarify issues in the above-captioned proceedings at the **request** of staff.

Representatives of the AFL-CIO, DPE, and affiliated unions were: Linda Foley of The Newspaper Guild/CWA; Greg Hessinger and Dominique Bravo of the American Federation of Television and Radio Artists (AFTRA), Jesus Sanchez of Writers' Guild of America, East; Jon Rintels of Writers' Guild of America, West, Paul E. Alneida and Mike Gildea of the Department of Professional Employees, AFL-CIO; Debbie Goldman, CWA; Joel Yudken, AFL-CIO; and Dean Baker of the Center for Economic Policy and Research.

We discussed **how** changes in the rules would impact the twin goals of competition and viewpoint diversity in news, information, and entertainment. We provided data previously provided to this Commission in comments filed by the AFL-CIO in the Newspaper/Broadcast Cross-Ownership proceeding and by AFTRA in the Local Radio Markets proceeding. The attached hand-outs were used during the discussion.

Sincerely,

Michael W. Gildea  
Executive Director

Cc: Kenneth Ferree, Paul Gallant, Robert Ratcliffe, Royce Sherlock

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- "Tipping" by dominant media outlets squeezes out Independents and other alternative media outlets
- Corporate parent's focus on boosting profits results in cuts in local news production

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- There is little competition and diversity in local media news and information markets.

- TV and newspapers dominate, with cable (2 percent) and Internet (4 percent) representing a tiny market share in local news and information media.

- And most cable and Internet outlets have the same owner as the local broadcast station or newspaper.

- Ownership matters for viewpoint diversity. Eliminating the **newspaper/TV cross-**ownership rule, therefore, would reduce viewpoint diversity.

- As any working journalist knows, media owners' views set the boundaries and sometimes dictate what is broadcast or published.

- Owners' concern for advertising revenues often leads to tailoring news content. Columbia University Graduate School of Journalism survey of 118 news director found that 53% reported that advertisers pressure them to kill stories. They report that the **w**all between news and sales is getting harder to maintain.

- A case *in* point: underreporting of labor news. Only 2% of evening news devoted to workers' issues, according to Fairness and Accuracy in Reporting.

- Co-owned media outlets reduce viewpoint diversity.

- The case of CanWest Global in Canada

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### Newspaper/Broadcast Cross-Ownership Rule is Necessary

#### To Promote Diversity and Competition

Department of Professional Employees, AFL-CIO

Presentation to FCC Mass Media Bureau

September 19,2002

- AFL-CIO interest in the **newspaper/broadcast** cross-ownership proceeding.
- Current media market conditions characterized by concentration and consolidation in the hands of national media conglomerates reduces diversity, localism, and quality journalism. Eliminating the **newspaper/TV** cross-ownership ban in local markets would accelerate this trend.
  - Relaxation of Ownership Restrictions has accelerated media concentration and consolidation
    - Consolidation in newspaper publishing
    - Consolidation in local broadcasting
    - Radio ownership dominated by two companies
    - Cable and satellite concentration
  - Media concentration and consolidation reduces local voice and diversity of voice
    - Less competition results in less aggressive newsgathering to "scoop" other outlets

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and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution. Provided, That there is no merger, combination, or amalgamation of editorial or editorial staffs, and that editorial policies be independently determined.

(3) The term 'newspaper owner' means any person who owns or controls directly or indirectly through separate or subsidiary corporations, one or more newspaper publications.

(4) The term 'newspaper publication' means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper published by the same owner in the same city, community, or metropolitan area), and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(5) The term 'failing newspaper' means a newspaper publication which, regardless of its ownership or affiliations, is in probable danger of financial failure.

(6) The term 'person' means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

#### "ANTITRUST EXEMPTION

"Sec. 4. (a) It shall not be unlawful under any antitrust law for any person to perform, enforce, renew, or amend any joint newspaper operating arrangement entered into prior to the effective date of this Act, if at the time at which such arrangement was first entered into, regardless of ownership or affiliations, not more than one of the newspaper publications involved in the performance of such arrangement was likely to remain or become a financially sound publication: Provided, That the terms of a renewal or amendment to a joint operating arrangement must be filed with the Department of Justice.

(b) It shall be unlawful for any person to enter into, perform, or enforce a joint operating arrangement, not already in effect, except with the prior written consent of the Attorney General of the United States. Prior to granting such approval, the Attorney General shall determine that not more than one of the newspaper publications involved in the arrangement is a publication other than a failing newspaper, and that approval of such arrangement would effectuate the policy and purpose of this Act.

(c) Nothing contained in this Act shall be construed to exempt from any antitrust law any predatory pricing, any predatory practice, or any other conduct in the otherwise lawful operations of a joint newspaper operating arrangement which would be unlawful under any antitrust law if engaged in by a single entity. Except as provided in this Act, no joint newspaper operating arrangement or any party thereto shall be exempt from any antitrust law.

#### "PREVIOUS TRANSACTIONS

"Sec. 5. (a) Notwithstanding any final judgment rendered in any action brought by the United States under which a joint operating arrangement has been held to be unlawful under any antitrust law, any party to such final judgment may reinstate said joint newspaper operating arrangement to the extent permissible under section 4(a) hereof.

(b) The provisions of section 4 shall apply to the determination of any civil or criminal action pending in any district court of the United States on the date of enactment of this Act in which it is alleged that any such joint operating agreement is unlawful under any antitrust law.

#### "SEPARABILITY PROVISION

"Sec. 6. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this Act, and the applicability of such provision to any other person or circumstance, shall not be affected thereby."

91st Congress }  
2d Session }

HOUSE OF REPRESENTATIVES

REPORT  
No. 91-1193

*Newspaper Industry  
Monopolies  
Failing Newspaper  
Act*

## NEWSPAPER PRESERVATION ACT

JUNE 15, 1970.—Referred to the House Calendar and ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary,  
submitted the following

### REPORT Together with INDIVIDUAL VIEWS [To accompany H.R. 279]

The Committee on the Judiciary, to whom was referred the bill (H.R. 279) to exempt from the antitrust laws certain joint newspaper operating arrangements having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows:

Strike all after enacting clause and insert in lieu thereof the following:

"SECTION 1. This Act may be cited as the 'Newspaper Preservation Act'.

#### "DECLARATION OF POLICY

"SEC. 2. In the public interest of maintaining a newspaper press editorially and reportorially independent and competitive in all parts of the United States, it is hereby declared to be the public policy of the United States to preserve the publication of newspapers in any city, community, or metropolitan area where a joint operating arrangement has been heretofore entered into because of economic distress or is hereafter effected in accordance with the provisions of this Act.

#### "DEFINITIONS

"SEC. 3. As used in this Act—

"(1) The term 'antitrust law' means the Federal Trade Commission Act and each statute defined by section 4 thereof (15 U.S.C. 44) as 'Antitrust Acts' and all amendments to such Act and such statutes and any other Acts in pari materia.

"(2) The term 'joint newspaper operating arrangement' means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: printing; time; method,

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This kind of institutional ownership of newspapers took off about 30 years ago. Consider for a moment what has transpired in that short period. What I call "financial play" newspapers now control more than 40% of America's daily circulation and more than 50% of its Sunday circulation. Add the large private chains and this handful of companies now controls more than 75% of the country's newspaper circulation.

Thank goodness for *The New York Times* and *The Washington Post* and their respective Sulzberger and Graham families, who have figured out how to maintain family control and who set the standard for journalistic stewardship even though their companies are publicly traded.

I have the privilege of being part of a family committed to a public trust by maintaining a fiercely independent press in the few communities we are privileged to serve. Our operation is 106 years old and in its fourth and fifth generations of family stewardship. Our flagship newspaper, the *Seattle Times*, is one of the last privately held, family-run metros in the country.

We are known in the communities we serve, as well as in the newspaper industry, for our passion for and investment in quality independent journalism. We believe our approach is also the best business strategy for the long run.

From a purely business perspective, we would love to own a TV station in Seattle. And, yes, it would significantly increase the value of our company. But we don't believe we need it to survive and compete. Indeed, we believe it would be bad public policy if we were allowed to do so.

It is no longer feasible for metropolitan areas to support competing metro newspapers. This makes the separation of TV and newspaper ownership in local communities vital to preserve multiple sources of news and a diversity of community voices.

Before it is too late, all of us who care about the role quality journalism plays in ensuring a healthy and free society need to start a vigorous dialog about what steps are necessary to save an independent press and a diversity of opinions.

We should start by insisting that the FCC keep its cross-ownership ban. And then we need to start talking about what the FCC, the Justice Department, and Congress can do to stimulate investment in quality journalism and to protect an independent press. We need to wake up to the dangers of concentration and stop taking or allowing actions that further accelerate it.

If we don't we put 225 years of democracy at risk.

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Frank A. **Blethen** is CEO and publisher of *The Seattle Times*.

# EDITOR & PUBLISHER

editorandpublisher.com

MARCH 18, 2002

## I A Voice In the Wilderness

PublisherBlasts *Industry View On Cross-ownership*

By Frank A. Blethen

Guest Commentary

Most media-industry observers believe the Federal Communications Commission (FCC) will soon repeal its rule prohibiting single ownership of a broadcast TV station and a newspaper in the same community.

This is a dangerous moment for American democracy

Repeal will dramatically accelerate the country's already narrow concentration of media control, as well as the channels of information distribution, into the hands of an elite few. It will lead directly to the loss of an independent press and the diversity of voices essential to the survival of a democracy.

The very fact the FCC is considering repealing the cross-ownership ban is a reflection of the increasing concentration of media ownership and the market-driven demand to grow profits. Advocates of repeal are the largest conglomerates, who see lifting of the ban as their ticket to grow profits through new acquisitions and monopolistic market control. Not only are their business arguments questionable and speculative, they do not include any discussion of the social value of an independent press and a diversity of voices.

History shows us that democracy depends on a free press. The Constitution granted special protections for the press not to insure its profitability but to guarantee that a government of and for the people can be held accountable by the people. This accountability extends to all powerful individuals and institutions in our country, including Big Business.

And make no mistake: Most media today are Big Business. Consolidation of ownership has already eroded accountability of both government and Big Business.

There is no ambiguity about the public financial markets. They are driven solely by bottom-line financial performance. Investment in public service and news at both the local and national levels is in direct conflict with maximizing short-term profits. The unintended consequence of concentrated media control, combined with faceless stock-market ownership, has been less investment in news coverage and opinion. For this reason, the concentration of media ownership is bad in and of itself, but now it is combined with an element that makes this concentration even more dangerous: the increasing ownership by financial institutions.

- o Co-owned properties in Tampa, Phoenix, Chicago, and elsewhere illustrate co-mingling of assignments and news coverage. The so-called "synergies" are a reduction in diversity of news and information. According to the Project on the State of the American Newspaper, "(t)he same group of minds decides what news is this isn't sinister, it's just not competition." ( Thomas Kunkel and Gene Roberts, "Leaving Readers Behind: The Age of Corporate Newspaper." *American Journalism Review*, Vol. 22, No. 4 (May 1, 2001) )

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- o Evidence from co-owned grandfathered media outlets where The Newspaper Guild/Communications Workers of America represents newsroom staff. There has been an increase in recent years in co-mingling of news reporting and cross-promotion.
- Case by case waiver policy provides the Commission flexibility to modify the cross-ownership ban in specific local markets where waiver serves the public interest.
- At a minimum, the Commission must ensure that any modification of the rule preserves the First Amendment goal of widest possible dissemination of information from diverse and antagonistic sources.

Congress provides a model, in the Newspaper Preservation Act (attached).

- o In 1970, Congress passed the Newspaper Preservation Act, providing an anti-trust exemption to allow failing newspapers in the **same** city to enter into joint operating agreements.
- o To preserve editorial independence, Congress required in the **Newspaper Preservation Act** that "There shall be no merger, combination, or amalgamation or editorial or reportorial staffs, and that editorial policies be independently determined."